

Item No. 16c

## AGENDA ITEM MEMORADUM

**Development Services**

Department

**Linda Connors** *LC*Town Planner *LB3*

COMMISSION MEETING DATE (*) - 7:00 PM	Deadline to Town Clerk
<input checked="" type="checkbox"/> <b>March 13, 2012</b>	March 2 <sup>nd</sup>

\*Subject to Change

- |                                       |   |   |                                       |
|---------------------------------------|---|---|---------------------------------------|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Reports        | <input type="checkbox"/> Consent                        | <input type="checkbox"/> Ordinance    |
| <input type="checkbox"/> Resolution   | <input type="checkbox"/> Quasi-Judicial | <input checked="" type="checkbox"/> <b>Old Business</b> | <input type="checkbox"/> New Business |

☐ FY2011 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC**SUBJECT TITLE: Pier Roof Sign.**

**EXPLANATION:** At the February 28, 2012 Commission meeting, the Commission approved amendments to the Town's sign code on first reading. During discussion of that item, the Commission asked that the Town review the possibility of allowing the pier's roof sign (**Exhibit 1**) that was destroyed during a hurricane in 2005 to be reinstalled either under the sign code provisions for non-conforming uses, or utilizing the sign code variance procedures. The Town attorney's opinion on this matter is attached as **Exhibit 2**.

The Town issued a permit (**Exhibit 3**) on July 10, 1980 to replace the existing sign on the roof of the restaurant located on the fishing pier. The application indicates that the sign was an 18 square foot, lighted roof sign. Unfortunately, the Town's files do not include the detailed sketch of the sign with dimensions required as part of the permit application.

Staff recognizes that there are certain signs that currently exist or were previously located within the Town that are recognizable landmarks to the Town and in many cases, these signs may not be allowed under current code. These signs are both architecturally interesting and advertise what could be considered landmark establishments within the Town. Examples of these would be the Aruba Beach Café's roof sign, the former Anglin Fishing Pier sign that was in the shape of a fish once located in the Commercial Boulevard median at Ocean Drive, and the Sea Watch pole sign (**Exhibit 4**). These signs add a certain charm to the community and reflect the characteristics of the business they represent. All of these signs have characteristics that would be encouraged and would be supported at other locations. For these reasons, staff could support the adoption of language in our code that would protect certain landmark signage.

Unfortunately, the Anglin's fishing pier roof sign was a simple lighted box sign with no distinguishing architectural characteristics or charm. Because of this, the sign itself does not have any outstanding architectural elements and does not have any redeeming value separate from advertising the business. This is not a sign that would be permitted under the current code or the proposed code. For these reasons, staff would not consider this particular sign a landmark architectural sign and do not support alternative amendments to the code to allow this particular sign.

- EXHIBIT:**
- 1 - Photograph of Pier Roof Sign
  - 2 - Email from Assistant Town Attorney re: Pier Roof Sign
  - 3 - Pier Roof Sign permit
  - 4 - Photographs of Landmark type signage

Reviewed by Town Attorney

☐ Yes ☐ NoTown Manager Initials *CA*



Exhibit 1





Linda Connors

**From:** Kathryn Mehaffey <KMehaffey@wsh-law.com>  
**Sent:** Friday, March 09, 2012 4:40 PM  
**To:** Linda Connors  
**Cc:** Susan L. Trevarthen  
**Subject:** Pier Roof Sign

## Pier Roof Sign

Under both the current and proposed Town Code, the pier roof sign, as described to us, cannot be rebuilt. As described, the sign at issue was a roof sign (permitted for 18 sq.ft. but actual built size unknown), mounted on visible brackets/poles that supported the sign well above the roof. Under the current code, roof signs are discouraged, limited to 32 sq.ft., 4 ft in height and 14 ft in length and the supports may not be visible. Significant variances would be required to allow the sign to be rebuilt, though we do not have enough detail about the destroyed sign or proposed replacement to provide a detailed analysis of exactly what variances would be required or their sustainability under the hardship variance criteria which would apply.

## Ability To Rebuild Under Non-Conforming Status

Section 30-21 deals with nonconforming uses and structures but specifically excludes signs. Further Section 7.1(2)(5) of the Town's Charter provides for rebuilding of nonconformities but deals exclusively with buildings. Even if these sections were somehow applicable, which they are not, the time frame within which to rebuild the destroyed sign has expired. In the charter provisions allowing for rebuilding after natural disasters, the ability to rebuild the nonconforming building is lost if construction is not started within 12 months of the date of destruction. That 12 month time limit may be extended by the Commission only if the application for the extension is received before the expiration of the initial 12 month time period.

Section 30-501 deals specifically with nonconforming signs. Subsection (e) requires replacement of a non-conforming sign with a conforming sign if a sign is damaged such that the cost of the repair will exceed 50% of replacement cost, *unless the sign is a pole/pylon sign*. However, even if the Pier's roof sign were reclassified as a pole sign, it could not be replaced as the height would exceed 15 feet from the crown of the road (and would be limited to 32 sq.ft.).

## Ability to Place New Sign

In order to place a new roof sign, the applicant would be required to obtain several variances. Under the current code, Section 30-507 *Roof Signs*, governs, which would limit the size to 32 sq.ft., 4 ft in height, and 14 ft in width, with no visible supports, only upon a finding that a pole sign doesn't exist on the property and that a wall or awning sign could not be used on the property.

These same parameters continue to govern the sign replacement under the proposed revisions to the Code (See Section 30-507(12)).

## Variance

There are not specific sign variance criteria therefore, the standard hardship criteria would apply as they do to all variances. These criteria are shown below in Section 30-8(e).

## Relevant Code Sections:

30-501

(e) Nonconforming signs. Any previously permitted, existing sign that does not conform to the provisions of these regulations shall be removed or brought into conformance with these regulations upon new development or redevelopment as defined in section 30-507 or when the Town has determined that the sign (except a pole or pylon sign meeting the criteria and conditions of subsection (f) below) has been destroyed or damaged such that the cost of alteration, repair or replacement of such sign exceeds 50 percent of the replacement cost thereof.

(f) Nonconforming pole and pylon signs. Except as permitted in the RM-25 and RM-50 district, any previously permitted pole or pylon sign legally existing as of March 27, 2001, and in existence for the two years prior to that date, shall be considered a legal, nonconforming pole or pylon sign.

(1) Upon new development or redevelopment of a site, any existing pole or pylon signs must be removed and may not be replaced under subsections (2) or (3) below.

(2) Legal, nonconforming pole or pylon signs meeting the criteria of this section may be replaced only under the following conditions:

(i) The sign box or panel of a pole or pylon sign shall not exceed 32 square feet in size.

(ii) There shall be no more than one pole or pylon sign per street frontage per property.

(iii) All pole and pylon signs shall be set back at least five feet from any property line or right-of-way.

(iv) Any pole sign located within 30 feet of a street intersection or within 15 feet of the intersection of a parking space and a driveway or street shall maintain seven feet of clearance between the ground and the bottom of the sign box or panel.

(v) No pylon sign may be placed within 30 feet of a street intersection or in any location that would obstruct cross-visibility at a driveway intersection or would obstruct cross-visibility for back-out parking.

(vi) The support poles of pole signs shall not exceed a width or diameter of 18 inches.

(vii) Pylon signs shall be limited to one pylon with a width or diameter not to exceed four feet.

(viii) The height of the top of a pole or pylon sign shall not exceed 15 feet above the crown of the nearest street.

(ix) Replacement pole signs and pylon signs require site plan review and approval by the Town Commission prior to issuance of a sign permit. The following additional requirements and conditions must be met in order for a proposed pole sign to receive site plan approval:

a. The proposed pole or pylon sign is replacing an existing pole or pylon sign.

b. The design and colors of the proposed sign shall be coordinated with the design and colors of any buildings on the premises.

c. The pole(s) of the proposed pole sign and the pylon of the proposed pylon sign shall have architectural treatment or be screened by lattice-work and/or landscaping that will, to the satisfaction of the Town Commission, ensure that the proposed sign is aesthetically compatible with adjoining development.

### **30-507 (Current Code)**

Roof sign: A sign mounted above the fascia of a sloped roof or above the deck of a flat roof. A sign placed upon a bona fide tower extending above the principal roof-line of the building or upon a dormer or recessed wall within a sloped roof shall not be considered a roof sign. Roof signs are permitted but not encouraged. Roof signs shall not be permitted if

either wall or awning signs can be placed upon a building. New development and redevelopment shall not be permitted to erect or maintain roof signs. No roof signs are permitted on any property with a pole or pylon sign. No roof sign shall exceed 32 square feet in size, four feet vertically or 14 feet in length. Roof signs shall be mounted on the parapet wall of a flat roof or on a solid supporting panel on a sloped roof. Roof signs shall not be mounted on visible poles or brackets. Multiple roof signs on the same building shall be the same design, size, shape and color.

30-507 (Proposed Code)

(12) Roof sign:

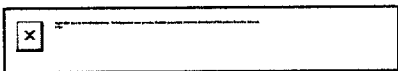
- (a) Roof signs shall not be permitted if either wall or awning signs can be placed upon a building;
- (b) New development and redevelopment shall not be permitted to erect or maintain roof signs. No roof signs are permitted on any property with a pole or pylon sign;
- (c) No roof sign shall exceed 32 square feet in size, four (4) feet in height vertically or 14 feet in length;
- (d) Roof signs shall be mounted on the parapet wall of a flat roof or on a solid supporting panel on a sloped roof;
- (e) Roof signs shall not be mounted on visible poles or brackets; and
- (f) Multiple roof signs on the same building shall be the same design, size, shape and color.

30-8(e)

(3) Criteria for considering an "Application for a Variance." In considering an application for a variance or an appeal from a decision on an application for a variance, an application shall be evaluated by considering the following criteria:

- a. Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.
- b. The circumstances, which cause the hardship, are peculiar to the property or to such a small number of properties that they clearly constitute marked exception to other properties in the district.
- c. The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.
- d. The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.
- e. The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- f. The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.
- g. Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.

Kathryn Mehaffey



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THINK BEFORE YOU PRINT

This message, together with any attachments, is intended only for the addressee. It may contain information which is legally privileged, confidential

FEE 1/2 OF ORIGINAL  
COST (\$12.12).

Exhibit 3

TOWN OF LAUDERDALE-BY-THE-SEA

\* SIGN PERMIT \*

PERMIT # 476  
FEE \$ 6.06 COUNTY FEE \$ 35 TOTAL \$ 6.41 DATE 7/10/80  
NAME OF APPLICANT Fishing Pier, Inc.  
ADDRESS 4317 Ocean Dr.  
NAME OF SIGN CONTRACTOR Kane Sign Co.  
TYPE OF SIGN (POLE, WALL, ETC.) Roof Sign  
IS SIGN LIGHTED? Yes TYPE OF LIGHTING \_\_\_\_\_  
STREET ADDRESS OF SIGN On Portion of Restaurant at Fishing Pier  
LOCATION OF SIGN ON PREMISES (Show set backs) " "  
ESTIMATED COST OF SIGN \$ 600 IS PROPOSED SIGN NEW? \_\_\_\_\_  
REPLACEMENT Yes  
IS SIGN AN ADDITIONAL ONE ON PROPERTY? No.  
TOTAL NUMBER OF SQUARE FEET IN SIGN 18 sq ft  
MAKE DETAILED SKETCH OF SIGN, INDICATING EXACT DIMENSIONS, SUBJECT MATTER  
TO APPEAR THEREON, AND ATTACH SUCH DETAILED DRAWINGS AS ARE REQUIRED BY  
ORDINANCE # 143.  
SIGN HERE Thomas E. McD.

REPLACE EXISTING "ANGLIN'S FISHING PIER"  
SIGN ON ROOF OF RESTAURANT ON FISHING  
PIER.







# Lauderdale by the Sea





